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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,348

02/17/2006

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EXAMINER

LOW, LINDSAY M

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,348	<b>Applicant(s)</b> VAN DE SANDE, MARINUS LAMBERTUS WILHELM	
	<b>Examiner</b> LINDSAY M. LOW	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-9 is/are pending in the application.  
     4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to applicant's amendment received on January 30<sup>th</sup>, 2008.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal (3,950,203) and Simeone (3,345,918) and Admitted Prior Art.

Van der Waal discloses the same invention as discussed in paragraph 3 of the previous office action mailed October 30<sup>th</sup>, 2007.

Van der Waal is silent about simultaneously applying a strap type band and a film type band around a packet. However, Simeone teaches applying a strap type band 12 and a film type band 16 simultaneously to a packet for the purpose of facilitating opening of the packet (see col. 1 lines 12-16). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to simultaneously apply a strap type band and a film type band to Van der Waal's packet for the purpose of facilitating opening of the packet.

In the alternative, Simeone discloses the same invention including supply reels having a supply roll for each a band of the strap type and a band of the film type (see

Fig. 4). Simeone is silent about having a conveyor belt, frame, band clamping and guiding means, and welding means. However, Van der Waal teaches a conveyor 2 for moving packets along, a frame 4 for supporting the supply rolls, and band clamping, guiding, and welding means (see figures) for sealing the bands together. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide Simeone's device with a conveyor, frame, and band clamping, guiding, and welding means for the purpose of supporting Simeone's packets and supply reels and also to properly seal the bands together.

Neither Van der Waal's or Simeone's modified invention discloses the conveyor being a belt. However, Examiner gave Official Notice for such feature which applicant did not adequately traverse; therefore, such feature is deemed to be admitted prior art (see MPEP 2144.03). It would have been obvious to one having ordinary skill in the art to have provided a belt to convey the packets forward in Van der Wal's or Simeone's modified device in order to provide smooth and continuous transportation of packages to be strapped.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal (3,950,203), Simeone (3,345,918) and Admitted Prior Art and in further in view of Odenthal (5,735,104).

The modified device of Van der Waal, or in the alternative the modified device of Simeone, discloses the same invention substantially as claimed except that a second band is of a larger width than the first band. However Odenthal teaches a device for wrapping two different size bands around packages for the purpose of providing support

by making one band a tray-forming strap (col. 2 lines 53-55). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a second band as taught by Odenthal that is of a different width for the purpose of providing more support to Van der Wal's, or in the alternative Simeone's, modified package.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal (3,950,203), Simeone (3,345,918) and Admitted Prior Art and in further in view of Odenthal (5,551,212).

The modified device of Van der Waal, or in the alternative the modified device of Simeone, discloses the same invention substantially as claimed except for a second band being provided with a label. However Odenthal teaches a device for wrapping bands around packages where a band can be embossed or printed, thus being provided with a label for the purpose of providing an advertisement or identification of the package (col. 2 lines 39-41). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have a second band that has print or embossment on it as taught by Odenthal for the purpose of providing an advertisement or identification of the package being wrapped.

### ***Response to Arguments***

6. Applicant's arguments filed January 30th, 2008 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LINDSAY M. LOW** whose telephone number is (571)272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3721

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. M. L./  
Examiner, Art Unit 3721

/Rinaldi I Rada/  
Supervisory Patent Examiner, Art Unit 3721  
5/12/2008